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Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

ESSJAYKAY ENTERPRISES, LTD. PROFIT
SHARING PLAN AND TRUST, STEPHEN J.
KRASS, as trustee, and SALLIE W. KRASS, as
trustee,

Defendants.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-05098 (SMB)

**STIPULATION AND ORDER FOR
VOLUNTARY DISMISSAL OF ADVERSARY PROCEEDING WITHOUT PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), by and through his counsel, Baker & Hostetler LLP, and defendants Essjaykay Enterprises, Ltd. Profit Sharing Plan and Trust, Stephen J. Krass, as trustee, and Sallie W. Krass, as trustee (collectively, “Defendants”), by and through their counsel, Rosenberg Feldman Smith, LLP (collectively, the “Parties”), hereby stipulate and agree to the following:

1. On December 2, 2010, the Trustee filed the Complaint against Defendants.
2. On May 2, 2014, Defendants filed an Answer to the Complaint.
3. Pursuant to the Settlement Procedures Order, entered by this Court on November 12, 2010 [Dkt. No. 3181], the Parties entered into a Settlement Agreement and Release on December 14, 2018.
4. Pursuant to the terms of the Settlement Agreement and Release, and in accordance with Federal Rule of Bankruptcy Procedure 7041(a)(1)(ii), and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to a dismissal without prejudice of the Trustee’s claims against Defendants in the above-captioned adversary proceeding and dismissing the adversary proceeding without prejudice, subject to the right of the Trustee to move *ex parte* to re-open this adversary proceeding in the event of an uncured default in the payments due pursuant to the Settlement Agreement to seek enforcement of the Settlement Agreement. Upon the Trustee’s receipt of the full Settlement Payment as set forth in the Settlement Agreement, and provided there is no default under the Settlement Agreement, this dismissal shall be deemed with prejudice.

5. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

6. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

Dated: December 19, 2018

Of Counsel:

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Attorneys for Defendants

SO ORDERED

Dated: **December 21, 2018**
New York, New York

/s/ STUART M. BERNSTEIN
HON. STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE